

## REMARKS

The Notice of Non-Compliance mailed June 1, 2006, argues that applicants have not responded to a rejection of claim 18 which, the Office Action argues, also must be amended to recite panels having a single distribution chamber. At the outset, it is noted that amendment as requested has been made, in order to expedite prosecution and for business reasons unrelated to patentability. However, it is submitted that such an amendment is unnecessary, inasmuch as claim 18 is a *process* claim which did not recite the apparatus limitation of having panels, but instead describes the process, *per se*. In any event, it is submitted that this issue is moot. The following remarks, presented in the prior amendment, are repeated for completeness.

### Rejections Under 35 U.S.C §112

Claims 1 - 18, 20 - 22, 24 and 25 have been rejected under 35 U.S.C §112, first paragraph. Reconsideration of this rejection is respectfully requested.

It is argued, at page 2 of the Office Action, that it is "essential" that the "panels" in the presently claimed system contain only a single distribution chamber (C). It is submitted that, while the advantageous concept of bypass path disclosed in the present specification and claimed herein necessitates a single distribution, mixing and/or extraction chamber on *at least one* panel, it is not seen that the concept of the invention cannot coexist with other distribution, mixing and/or fluid extraction panels which do not comprise a single distribution, mixing and/or extraction chamber, so long as there is *at least one* panel which is in accordance with the invention. The portions of the specification noted in the Office Action pertain to panels in accordance with the invention which contain a single chamber. However, it is not seen that the invention is written so as to exclude panels which do not have this feature, so long as at least one panel in accordance with the invention is present in the apparatus. It is therefore respectfully submitted that claim 1 is fully enabled by the specification. Such panels which do not contain a single chamber, of course, would be well known in the art.

With respect to claim 18, this claim is also directed to the broad concept of the invention,

in which a part of the main fluid is circulated outside the enclosure by means of a bypass line containing at least two ends, one end being connected to a zone of an adsorbent bed, which zone is not a distribution chamber. This claim does not recite the panel structure, per se, but instead is drawn to the concept which underlies the invention. This concept is enabled, since an embodiment of the concept is clearly disclosed in the specification and one of ordinary skill in the art could, with mere routine experimentation, practice the invention of claim 18. This is all that is required, see *In re Marzocchi*, 439 F.2d 220, 169 USPQ 367 (CCPA 1971).

Finally, attention is directed to newly added claim 26, which places claim 23 in independent form. This claim requires that all panels comprise a single distribution, mixing and/or extraction chamber.

Claims 1 - 18 and 20 - 25 have also been rejected under 35 U.S.C §112, second paragraph. It is respectfully submitted that these claims do *not* fail to recite an essential limitation, as discussed above. On this basis, withdrawal of the rejection is respectfully requested.

It is also noted that a typographical error in claims 18, 20, 21 and 25 has been corrected, as has the grammatical error in claim 23. Withdrawal of the rejection is therefore respectfully requested.

#### Rejections Under 35 U.S.C §102

Claims 1, 13, 17, 23 and 24 remain rejected under 35 U.S.C §102(b) over Haase '292. Reconsideration of this rejection is respectfully requested. It is again respectfully submitted that the adsorbent in Haase is not isolated in a bed, but rather is packed into the reactor beneath upper plate 9, and above lower plate 9. See Figure 1. Thus, in patentees' apparatus, the reactor comprises layers of distributor pans (4), with adsorbent between such vertically adjacent layers. Annular distribution rings (3) communicate both with conduit (6), and with a layer of pans (4) through line (5). Thus, line (5) communicates between chamber (3) and pan (4,) rather than communicating with an adsorbent bed. As a result, in patentees' apparatus, there is no connection to a zone of an *adsorbent bed* which is distinct from a distribution chamber. While it is argued in the Office Action that there is an adsorbent bed in the reference contained between

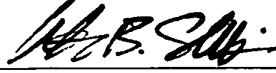
upper and lower plates 9, arguably results in dividing pans 4 of the reference being "zones" within the adsorbent bed, Applicants respectfully disagree with analysis. Moreover, Haase does not disclose a "by-pass line" since any line 5 (see Fig. 1) cannot be a by-pass of the fluids distributed to, or extracted from the corresponding panel 4: A line 5 is only a "main connecting line" between a panel 4 and the supply/withdrawal fluid line 6 via the connecting chamber 3. Thus, when fluid line 6 is operated with a fluid flow (supply or withdrawal), plate 4 is supplied or withdrawn via a "main fluid flow" in line 5, and there is no by-pass of fluid. Also, when there is no flow in line 6, there is no flow in any of corresponding lines 5 because there is no pump or circulator to circulate a fluid between different panels 4 of a same plate (same level in the column). As a result, Haase does not disclose or teach the by-pass circuit as presently claimed. Withdrawal of this rejection is therefore respectfully requested.

Claims 18, 20, 21 and 25 have also been rejected under 35 U.S.C §102(e) over Ferschneider et al. '537. Reconsideration of this rejection is also again respectfully requested. It is maintained that the language of process claim 18, further clarified to recite that one end of the by-pass line is "connected to a zone of an adsorbent bed *distinct from distribution chambers*" clearly delineates over the reference. It is argued, in the Office Action, that the existing language requires the end not connected to the adsorbent bed only be distinct from distribution chamber C<sub>i</sub>, which allowed connection to distribution chamber C<sub>j</sub>, C<sub>k</sub>, etc. This is clearly not a normal reading of the claim language. However, in any event, the claim has been further clarified in order to unequivocally indicate that the by-pass line connected to the adsorbent bed is in an area which is *not* a distribution chamber of any sort. As a result, it is maintained that the reference fails to anticipate these claims, and withdrawal of this rejection is respectfully requested.

The claims of the application are submitted to be in condition for allowance. However, if the Examiner has any questions or comments, he is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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Harry B. Shubin (Reg. No. 32,004)  
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410

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